

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link Up	)	WC Docket No. 03-109
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions in the Telecommunications Act of	)	
1996	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	
	)	
Intercarrier Compensation for ISP-Bound	)	CC Docket No. 99-68
Traffic	)	
	)	
IP-Enabled Services	)	WC Docket No. 04-36

**REPLY COMMENTS OF THE  
ALARM INDUSTRY COMMUNICATIONS COMMITTEE**

The Alarm Industry Communications Committee (“AICC”) files these Reply Comments on the Order on Remand and Report and Order and Further Notice of Proposed Rulemaking (“Order/FNPRM”) in the referenced proceedings. AICC is the principal voice of the U.S. alarm industry in matters affecting the industry’s telecommunications interests before the FCC, the Courts and Congress. The membership of AICC includes two principal trade associations which represent alarm monitoring and installation companies – the Central Station Alarm Association

and the National Burglar and Fire Alarm Association – and it also includes the Security Industry Association (“SIA”). SIA is the principal trade association of the industry which manufactures a broad range of equipment utilized in the monitoring and installation sectors of the industry. AICC’s membership also includes national companies, like Honeywell and ADT, as well as other major alarm companies and equipment and service providers. A complete list of AICC’s membership is attached to these Reply Comments.

AICC submits these comments to address the Order/FNPRM’s proposal to impose a number-based universal service fund (“USF”) contribution requirement on the alarm industry.<sup>1</sup> AICC respectfully submits that the Order/FNPRM’s proposal in this respect should be rejected. The imposition of either an \$.85/number or \$1.00/number charge could have devastating effects on a rapidly growing sector of the alarm industry. This sector relies upon the innovative and efficient use of wireless service to provide either a primary or redundant path to central-station monitoring stations across the U.S. Special conditions attend this service -- and perhaps most importantly, it does not touch the public switched network. The service allows the industry to protect the life, safety and property of approximately one million customers at present, a number which is growing rapidly. Many of these customers are enabled to enjoy the protection of the alarm industry at all by virtue of favorable economics running between the wireless industry and the alarm industry. This is discussed further in these comments. Aside from the punitive effects which the number-based charge would have upon such a vibrant industry quarter, the proposal rests upon a flawed foundation. In this respect, the Order/FNPRM suffers both from fundamental factual and legal error.

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<sup>1</sup> References to the Order/FNPRM’s number-based contribution proposal will be made to Appendix B for the sake of consistency, unless otherwise noted. AICC is aware that Appendix B proposes a monthly number-based USF contribution of \$.85 per number, while Appendix C proposes a contribution level of \$1.00 per number. As discussed herein, AICC submits that neither charge represents good public policy, nor a lawful policy option.

**Application Of The Number-Based Charge As  
Proposed Would Violate The Communications Act**

The Order/FNPRM finds authority to impose broadly the number-based contribution charge (“...to require contributions from a variety of providers...”) in section 254(d) of the Communications Act of 1934, as amended (“Act”) 47 U.S.C. § 254(d). Order/FNPRM, App’x B at paras. 45-49. Specifically, the NPRM leans on language in section 254(d) (“...the cornerstone of the universal service program...”) requiring universal service contributions from “every provider of telecommunications services...” and permitting contributions to be imposed upon “any other provider of interstate telecommunications” if the public interest requires it. *Id.* at paras. 46-47. The Order/FNPRM explains the broader application of the contribution requirement in terms of ‘providers of telecommunications’ which facilitate some amount of interconnection to the PSTN and because their end users benefit from being interconnected with the PSTN. *Id.* at para. 50.

The Order/FNPRM specifically finds that alarm industry services are subject to the number based charge because such services “...are receiving the benefit of having access to the PSTN...”. *Id.*, at para. 92, n. 227. Neither the FCC’s legal conclusion regarding the alarm industry’s status as a ‘provider of telecommunications’, nor its conclusion about PSTN interconnectivity, are correct.

The factual basis for the Order/FNPRM’s finding is discussed first. The unlawful nature of the proposal is discussed next.

## I

### **The Facts Demonstrate that the Alarm Industry Does Not Provide PSTN Interconnectivity**

The Order/FNPRM's conclusion that alarm companies are subject to the numbers-based contribution assessment is predicated upon the finding, as noted earlier, that the relevant services "are receiving the benefit of having access to the PSTN." This factual predicate is mistaken, however. First, as noted by the Order/FNPRM, the cited footnote was prompted by an ex parte letter pointing out the serious consequences for the alarm industry if the numbers-based assessment is adopted. Order/FNPRM, at para. 92, n. 227. This ex parte letter, upon which the footnote apparently relies, does not support the finding that the alarm services interconnect with the PSTN. "If the Commission suddenly imposed a per number contribution fee of a dollar or a dollar fifty, the entire economics of the industry would be turned upside-down, even though these applications may not even access the public switched network" (emphasis supplied). See Letter from Donald J. Evans, Counsel for Corr Wireless Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92, WC Docket No. 06-122, WT Docket No. 05-194, at 2 (filed Oct. 23, 2008). This letter does not form a basis, then, to conclude that the wireless services provided by Corr, and others, and which constitute a component part of monitored alarm service, facilitate "having access to the PSTN."

Indeed, the wireless applications discussed by Corr do not allow customers to make or receive calls to, or from, the PSTN. By way of background, the alarm service at issue relies upon a wireless connection between the customer's premise and the central monitoring station. In a typical application, wireless service is purchased "in bulk" from national wireless carriers, usually at a considerable discount from conventional voice plans. The discount represents the

extremely low usage and unique characteristics of this particular security application by the alarm industry. Telephone numbers are made available by the wireless carriers, which numbers are incorporated into a security interface (sometimes referred to as a “panel”) in the protected premise. When a panel is installed by an alarm dealer, the underlying wireless service is activated. From that point on, the embedded telephone number becomes irrelevant to the monitoring center, as information proprietary to the monitoring center, and embedded in the panel, is used in identifying, servicing and protecting the account.

It is particularly noteworthy that the wireless transport feature of the security package does not allow PSTN interconnectivity. In this respect, the alarm companies themselves take steps to prevent the remote premises device to be used for calls to the PSTN. For instance, one of the largest alarm companies in the industry which provides this service actively disables the device in a way to make it difficult, if not impossible, to dial out to the PSTN. Additionally, CMRS carriers prohibit the use of the wireless feature for anything but the alarm security application. To be sure, there are some applications which utilize voice transmission (as opposed to data, also transmitted over these links), but these are only between the protected premise and the central station.<sup>2</sup> Thus, the wireless links, including voice, are only used in the alarm security application, and not with the public switched network.

## II

### **The Proposed Imposition of the Number-Based Assessment on the Alarm Industry is Unlawful**

As previously noted, the Order/FNPRM’s proposal to apply the numbers-based USF assessment to the alarm industry is based on the belief that the alarm industry is a “provider of

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<sup>2</sup> Audio features, including voice, have been used in security monitoring applications, primarily over private line circuits. The advent of efficiently priced wireless service, however, has allowed the Alarm industry to gradually replace this relatively expensive technology.

interstate telecommunications.” See, 47 U.S.C. § 254(d). In order to be classified as providing “interstate telecommunications”, the capacity would have to be provided for “transmission, between or among points specified by the user, of information of the user’s choosing.” 47 U.S.C. § 153 (43). These comments have previously demonstrated that the use of the integrated alarm/wireless link allows none of these functions. For instance, the transmission between the customer’s premise and the alarm monitoring center is specified by the alarm company, and not the customer. The panel dials a predetermined number which serves the alarm company and, as previously discussed, the panels may not be used to dial the PSTN except with extreme difficulty, if at all. Such use is, in fact, prohibited. Moreover, the information to be transmitted from the customer’s premise is not information of the customer’s choosing. The wireless link is not a chat line; rather it transmits, in data mode, information relevant to the alarm condition, such as type of event (e.g., fire or burglary), the premises location, and where an intrusion or fire may have occurred. Even in audio mode, the circuit would not be available except in an emergency condition. This is hardly the circumstance where some principle of competitive neutrality requires the charge to prevent discrimination against voice telephony. In this respect, AICC shares the view of OnStar Corporation, whose telematics offering does not appear to constitute “telecommunications.” See, Comments of OnStar Corporation, WC Docket No. 06-122; CC Docket No. 96-45, filed Nov. 26, 2008.

At bottom, the alarm industry makes use of telecommunications as part of its business, but does not provide telecommunications. The Commission has previously found that alarm monitoring service constitutes the provision of enhanced service (later considered “information

service”).<sup>3</sup> Today, the provision of alarm service likewise satisfies the definition of information service found in 47 U.S.C. § 153(20). In this respect, the alarm monitoring function, in the case of an emergency, performs all, or nearly all, of the functions listed in the definition. It generates, acquires, stores, processes, retrieves and utilizes information via telecommunications about the reported event. And, it uses such information, acquired via transmission, to supply a finished business product.

Thus, the monitoring service provided by the alarm industry, relying upon wireline or wireless transmission, constitutes an enhanced or information service. As such, the constituent companies are treated as business end users.<sup>4</sup> The Order/FNPM’s attempt to treat the alarm industry as something else is a misreading of § 254(d) of the Act, and is unlawful.

Finally, the Order/FNPRM’s proposal to assess a charge of up to \$1.00 per month, per number runs afoul of Texas Office of Public Counsel v. FCC, 183 F.3d 393, 434 (5th Cir. 1999) (“Tex. OPC”). Both OnStar and Toyota Motor Sales, Inc. (“Toyota”) discuss the Tex. OPC holding against the proposal to charge up to \$1.00 per month, per number. Comments of OnStar Corporation, pp. 7-8; Comments of Toyota, pp. 11-12. Both comments illustrate that the effect of the number-based assessment will produce a greater USF contribution liability than either party generates in interstate service.

OnStar illustrates more than a 10,000 percent increase in USF assessment for telematics companies, based upon an average usage per phone number of 2 minutes per month, OnStar Comments, p. 4 & n. 8, and a related USF assessment of over 1,000 percent increase for

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<sup>3</sup> See, e.g., Bell Operating Companies Joint Petition for Waiver of Computer II Rules, Order, 10 FCC Rcd 1724 (1995); Implementation of the Telecommunications Act of 1996: Telemessaging, Electronic Publishing, and Alarm Monitoring Services, CC Docket No. 96-152, Second Report and Order, 12 FCC Rcd 3824 (1997).

<sup>4</sup> See, e.g., In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-carrier Compensation for ISP-Bound Traffic, 16 FCC Rcd 9151, ¶11, (2001).

interstate revenue. Id., pp. 4-5 & n. 9. Both OnStar and Toyota conclude that this result is prohibited by Tex. OPC, which found similar assessments for Comcast to violate the equitable and non-discriminatory contribution provisions of section 254(d) of the Act (47 U.S.C. § 254(d)).

AICC agrees. For 20 percent of the alarm industry's wireless application at issue, the average usage per number, per month is two minutes, as in the case of OnStar's reported usage. For the remaining 80 percent, the average usage is two seconds per month. Following the formula set out by OnStar, the increase in USF assessment for this portion of the industry is 600,000 per cent using the two second average. An \$0.85 USF fee would be almost 70,000 per cent of interstate revenue. In either case, the expense is grossly disproportionate, inequitable and discriminatory. AICC agrees with OnStar and Toyota that the result would be unlawful under the Tex. OPC holding. The Commission accordingly should reject the Order/FNPRM's proposal to assess the number-based USF charge (either \$.85 or \$1.00, monthly) upon alarm monitoring companies.

### III

#### Conclusion

Implementation of the Order/FNPRM's proposal to impose a number-based USF contribution requirement on the alarm industry would be improper and detrimental. The alarm industry does not permit access to the PSTN from its hardware. While the alarm industry makes use of telecommunications in providing services, it does not provide telecommunications; alarm monitoring has long been recognized as an enhanced service. Furthermore, the implementation of access charges per number is a violation of the equitable and non-discriminatory contribution



provision of section 254(d) of the Act. Therefore, AICC respectfully requests that the Commission reject the application of a number-based USF contribution requirement on the alarm industry.

Respectfully submitted,

**ALARM INDUSTRY  
COMMUNICATIONS COMMITTEE**

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Member Companies of the  
Alarm Industry Communications Committee

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ADT Security Services

AERIS Communications

AES-IntelliNet

Alarm.com

Bosch Security Systems

Central Station Alarm Association

DMP (Digital Monitoring Products)

Emizon LLP

GE Security

Honeywell Security & Communications

Intertek Testing

National Burglar and Fire Alarm Association

Numerex

Security Industry Association

Security Network of America, Inc.

SG Security Communications / Sur-Gard

Stanley Convergent Security Solutions/HSM

Telular Corporation

Underwriters Laboratories, Inc.

Vector Security, Inc.